

Proposed Regulation: Restrictions on Refrigerant Gases Used in Refrigeration and Air-Conditioning Appliances

Adopt new sections X, X, X, X, X, and X, Article 4, Subchapter 5.2, Chapter 1, Division 3, Title 17, California Code of Regulations to read as follows:

[Note: All of the text below is new language to be added to the California Code of Regulations.]

Subarticle 5.2. Restrictions on Refrigerant Gases Used in Refrigeration and Air Conditioning Appliances

Use of "X" is designates a number placeholder.

§ XXXXX. Purpose.

The purpose of this subarticle is to achieve progress toward the 2030 greenhouse gas targets identified in Health and Safety Code section 38566 and the hydrofluorocarbon reduction targets identified in Health and Safety Code section 39730.5, and in the Short Lived Climate Pollutant Strategy developed pursuant to that section, through preserving use restrictions and restrictions upon unacceptable substitutes for certain substances, listed under the federal Significant New Alternatives Policy (SNAP) program, 40 CFR Part 82, Subpart G, Appendix U and V, as of December 1, 2016, as they apply to refrigerants used in refrigeration and air-conditioning appliances.

NOTE: Authority: Sections 38510, 38598, 38560, 38562, 38566, 38580, 39600, 39601, 39730.5, 41511, Health and Safety Code; Reference: Sections 38510, 38598, 38560, 38562, 38566, 38580, 39600, 39601, 39730.5, 41511, Health and Safety Code.

§ XXXXX. Applicability.

This subarticle applies to any person who sells, installs, or uses refrigerant gases in refrigeration and air-conditioning appliances in California.

NOTE: Authority: Sections 38510, 38598, 38560, 38562, 38566, 38580, 39600, 39601, 39730.5, 41511, Health and Safety Code; Reference: Sections 38510, 38598, 38560, 38562, 38566, 38580, 39600, 39601, 39730.5, 41511, Health and Safety Code.

§ XXXXX. Definitions.

(a) For the purposes of this subarticle, the following definitions shall apply:

(1) “*Appliance*” means any stationary device that contains and uses refrigerant gas, including any air-conditioner, refrigerator, chiller, freezer, or refrigeration system.

(2) “*Air-Conditioning*” or “comfort cooling” means any stationary appliance that provides cooling to a space for the purpose of cooling occupants.

(3) “*Air District*” means an air quality management district or air pollution control district created or continued in existence under Health and Safety Code sections 40000-41357.

(4) “*Air Pollution Control Officer*” means the appointed head of an Air District whose appointment and duties are set forth in Health and Safety Code sections 40750-40753.

(5) “*Component*” means a part of a refrigeration system or appliance (including condensing units, compressors, condensers, evaporators, receivers) and all of its connections and subassemblies, without which the refrigeration system or appliance will not properly function or will be subject to failures.

(6) “*End-use*” means processes or classes of specific applications within major sectors where a substitute replaces an ozone-depleting substance. Such as in a refrigeration or air-conditioning appliance.

(7) “*Executive Officer*” means the Executive Officer of the California Air Resources Board or their delegate.

(8) “*Greenhouse Gas*” or “*GHG*” means carbon dioxide (CO₂), methane, (CH₄), nitrous oxide (N₂O), nitrous trifluoride (NF₃) sulfur hexafluoride (SF₆), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and other fluorinated gases.

(9) “*Hydrofluorocarbon*” means a class of GHGs, primarily used as refrigerants, consisting of hydrogen, fluorine, and carbon.

(10) “*New Refrigeration System*” or “*New Air-Conditioning System*” means any appliance that is:

(A) First installed using new or used components, including evaporators, compressors, condensers, receivers, etc.;

(B) Expansion of an existing refrigeration or air-conditioning appliance to handle an expanded cooling load by the addition of components in which the full charge

of the system is increased. This includes refrigerant lines, evaporators, compressors, condensers, etc.; or

(C) The replacement or cumulative replacement of components of a refrigeration or air-conditioning appliance such that the capital cost exceeds 50 percent of the capital cost of replacing the entire refrigeration or air-conditioning appliance. Capital costs include the costs of engineering, purchase, and installation of components and instrumentation; and contractor and construction fees. Cumulative replacement includes all components installed in the previous 3 years.

(11) “*Person*” means any human being, firm, association, organization, manufacturer, distributor, partnership, business trust, corporation, limited liability company, company, federal, state, or local governmental agency or public district.

(12) “*Refrigerant*” or “*Refrigerant Gas*” means a compound used as a heat transfer fluid or gas that is: (i) a chlorofluorocarbon (CFC), hydrochlorofluorocarbon (HCFC), hydrofluorocarbon (HFC), perfluorocarbon (PFC), hydrofluoroolefin (HFO), or any blend of containing such compounds; or (ii) any substance as defined in Title 40 of the Code of Federal Regulations, Part 82, Subpart A, Section 82.3 (as amended December 1, 2016).

(13) “*Refrigeration*” means the use of a refrigerant gas to mechanically move heat from one region to another to create a cooled region via a vapor compression cycle.

(14) “*Retrofit*” means the replacement of the refrigerant used in a refrigeration or air-conditioning appliance with a different refrigerant, and related changes to the refrigeration or air-conditioning appliance required to maintain the refrigeration or air-conditioning appliance operation and reliability following refrigerant replacement.

(15) “*Stationary*” means the system is (i) installed in a building, structure, or facility; (ii) attached to a foundation, or if not attached, will reside at the same location for more than twelve consecutive months; or (iii) located at the same single location on a permanent basis at least two consecutive years and that operates at that single location at least three months each year.

(16) “*Use*” means any utilization of a Class I or Class II ozone-depleting compound or substitute, including but not limited to utilization in a manufacturing process or product, in consumption by the end-user, or in intermediate applications, such as formulation or packaging for other subsequent applications.

NOTE: Authority: Sections 38510, 38598, 38560, 38562, 38566, 38580, 39600, 39601, 39730.5, 41511, Health and Safety Code; Reference: Sections 38510, 38598, 38560, 38562, 38566, 38580, 39600, 39601, 39730.5, 41511, Health and Safety Code.

§ XXXXX. Refrigerant Use Restrictions and Acceptability.

(a) The federal list of unacceptable substances and use restrictions under Title 40 of the Code of Federal Regulations, Part 82, Subpart G, Significant New Alternatives Policy Program: Appendix U (Unacceptable Substitutes and Substitutes Subject to Use Restrictions Listed in the July 20, 2015 Final Rule, Effective August 19, 2015 [80 Fed. Reg. 42870 (July 20, 2015, as amended at 81 FR 86885, Dec. 1, 2016)]) and Appendix V (Substitutes Subject to Use Restrictions and Unacceptable Substitutes Listed in the December 1, 2016 Final Rule [81 Fed. Reg. 86778 (Dec. 1, 2016)]) are incorporated by reference as of January 1, 2018.

(b) No person may sell, install, or use, in California, for:

- (1) use in a new stationary refrigeration or air conditioning appliance; or
- (2) retrofit of a stationary refrigeration or air conditioning appliance

a refrigerant that was listed as unacceptable in Title 40 of the Code of Federal Regulations, Part 82, Subpart G, Appendices U and V, as of January 1, 2018, or may sell, install, or use such refrigerants for uses compliant with the conditions set out in those Appendices.

NOTE: Authority: Sections 38510, 38598, 38560, 38562, 38566, 38580, 39600, 39601, 39730.5, 41511, Health and Safety Code; Reference: Sections 38510, 38598, 38560, 38562, 38566, 38580, 39600, 39601, 39730.5, 41511, Health and Safety Code.

§ XXXXX. Enforcement.

(a) Penalties may be assessed for any violation of this subarticle pursuant to the Health and Safety Code section 38580.

(b) Each day or portion thereof, in violation of this subsection shall constitute a single, separate violation of this subarticle.

(c) Any violation of this subarticle may be enjoined pursuant to the Health and Safety Code section 41513.

(d) The requirements of this subarticle are provisions of state law and are enforceable by both CARB and the local air districts where any appliance covered by this subarticle is located. Any penalties secured by a local air district as a result of an enforcement action that the local air district undertakes to enforce the provisions of this subarticle may be retained by the local air district.

(e) The CARB Executive Officer, at his or her discretion, may enter into an agreement or agreements with any local air district for implementation and enforcement processes.

(f) Implementation and enforcement of the requirements of this subarticle by a local air district does not in any way waive or limit CARB's authority to implement and enforce upon the requirements of this subarticle.

NOTE: Authority: Sections 38510, 38598, 38560, 38562, 38566, 38580, 39600, 39601, 39730.5, 41511, Health and Safety Code; Reference: Sections 38510, 38598, 38560, 38562, 38566, 38580, 39600, 39601, 39730.5, 41511, Health and Safety Code.

§ XXXXX. Relation to Federal Law.

This subarticle is not effective or enforceable if the amendments made to Title 40 of the Code of Federal Regulations, Part 82, Subpart G, Significant New Alternatives Policy Program: Appendix U (Unacceptable Substitutes and Substitutes Subject to Use Restrictions Listed in the July 20, 2015 Final Rule, Effective August 19, 2015 [80 Fed. Reg. 42870 (July 20, 2015)]) and Appendix V (Substitutes Subject to Use Restrictions and Unacceptable Substitutes Listed in the December 1, 2016 Final Rule [81 Fed. Reg. 86778 (Dec. 1, 2016)]), as codified as of [DATE], are not vacated or otherwise held to be unenforceable by a federal court.

§ XXXXX. Severability.

Each part of this subarticle shall be deemed severable, and in the event that any provision of this subarticle is held to be invalid, the remainder of this subarticle shall continue in full force and effect.

NOTE: Authority: Sections 38510, 38598, 38560, 38562, 38566, 38580, 39600, 39601, 39730.5, 41511, Health and Safety Code; Reference: Sections 38510, 38598, 38560, 38562, 38566, 38580, 39600, 39601, 39730.5, 41511, Health and Safety Code.